Remarks

Reconsideration of this Application is respectfully requested.

The Examiner requested on February 4, 2003, that claims 3, 15, 16, and 22 be amended by canceling the reference to "N-morpholinyl", "N-pyrrolidinyl", and "N-piperazinyl" as definitions for R_{10}, and that copies of the references listed on Form PTO-1449 resubmitted on May 9, 2002, be resubmitted.

During a telephone conference on February 5, 2003, the Examiner agreed that claim 15 can be amended by canceling the phrase "selected from the group consisting of N-morpholinyl, N-pyrrolidinyl, and N-piperazinyl" from the definitions of R_{10}, leaving the term "heterocycle" as a definition for R_{10}.

During a telephone conference of February 13, 2003, it was brought to the Examiner's attention that Applicants wish to amend claim 17, directed to pharmaceutical compositions, to be dependent also on independent claims 22 and 25 in addtion to claims 1 and 16. Furthermore, the Examiner indicated that he is willing to rejoin and consider the method claims 18-21, canceled in the previous Amendment of November 27, 2002, as long as they are specifically adapted to the allowable compounds and they are amended is such as way that no § 112, paragraph issues rise. Specifically, the Examiner requested the deletion of the term "preventing" from all the method claims.

Applicants resubmitted the references originally submitted along with Form PTO-1449 accompanying Applicants' Information Disclosure Statement, filed December 13, 2001 and resubmitted by facsimile on May 9, 2002, on February 13,

2003 via hand carry. Applicants respectfully request the Examiner to provide a copy of the initialed and signed PTO-1449 forms.

Claims 3, 15, 16, 17, and 22 are sought to be amended, and new claims 28-31 are sought to be added. Claims 3, 15, 16, and 22 have been amended by amending the definitions for R_{10} as requested by the Examiner. Applicants submit that no new matter has been introduced by this amendment since deletion of individual members of a Markush expression does not constitute new matter. *See In re Johnson and Farnham*, 558 F.2d 1008, 1019, 194 U.S.P.Q. 187, 196 (CCPA 1977). Claim 17 has been amended by amending the dependencies. Specifically, claim 17 has been amended to be dependent on all independent compound claims 1, 16, 22, and 25. Support for this amendment can be found in the original specification and claims as filed.

New claims 28-31 find support in the original claims 18-21. New claims 28-31 are specifically adapted to the allowable compounds. Further, none of claims 28-31 include the term "preventing."

These changes are believed to introduce no new matter, and their entry is respectfully requested. Upon entry of the foregoing amendment, claims 1-10, 15-17 and 22-31 are pending in the application, with claims 1, 16, 22 and 25 being the independent claims.

Conclusion

All of the stated grounds of objection and rejection have been properly traversed, accommodated, or rendered moot. Applicants therefore respectfully request that the Examiner reconsider all presently outstanding objections and rejections and that they be withdrawn. Applicants believe that a full and complete reply has been made to the outstanding issues raised by the Examiner and, as such, the present application is in condition for allowance. If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at the number provided.

Prompt and favorable consideration of this Supplemental Amendment and Reply is respectfully requested.

Respectfully submitted,

STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.

John M. Covert

John M. Covert
Attorney for Applicants
Registration No. 38,759

Date: Feb. 14, 2003

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Washington, D.C. 20005-3934
(202) 371-2600

Version with markings to show changes made

New claims 28-31 have been added.

Claims 3, 15, 16, 17, and 22 have been amended as follows:

3. (Once Amended) A compound of claim 2, wherein R_{10} is selected from the group consisting of C_{1-6} alkyl, C_{2-6} alkenyl, OR_{10}, amino, C_{1-6} alkylamino, di(C_{1-6})alkylamino, C_{2-6} alkenylamino, and di(C_{1-6})alkylamino(C_{2-6})alkenyl[, N-morpholinyl, N-pyrrolidinyl, and N-piperazinyl].

15. (Three Times Amended) A compound of claim 1, wherein:

R_1 is $C(O)R_{10}$, $CH_2C(O)R_{10}$, or SO_2R_{10};

X is O or S;

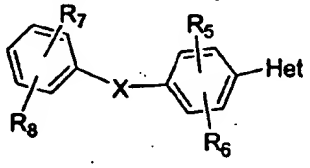
R_{10} is amino, optionally substituted C_1-C_6 alkyl, or a heterocycle [selected from the group consisting of N-morpholinyl, N-pyrrolidinyl and N-piperazinyl];

R_2, and R_3 are independently hydrogen, C_1-C_6 alkyl, C_1-C_6 alkylthio or C_1-C_6 alkylsulfinyl,

R_5 and R_6 are as defined in claim 1, and

R_7 and R_8 are independently selected from the group consisting of hydrogen, halo, halo(C_1-C_6)alkyl, C_1-C_6 alkyl, hydroxy(C_1-C_6)alkyl, amino(C_1-C_6)alkyl, carboxy(C_1-C_6)alkyl, alkoxy(C_1-C_6)alkyl, nitro, amino, C_1-C_6 acylamino, amide, hydroxy, thiol, C_1-C_6 acyloxy, C_1-C_6 alkoxy, carboxy, carbonylamido and C_1-C_6 alkylthiol.

16. (Three Times Amended) A compound of Formula *I*:

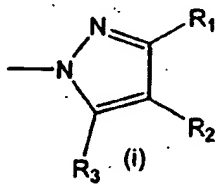


I

or a pharmaceutically acceptable salt, prodrug or solvate thereof, wherein

X is O or S;

Het is



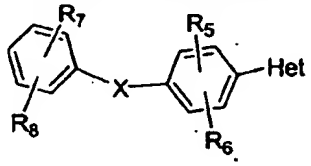
R_1 is $C(O)R_{10}$, $CH_2C(O)R_{10}$, or SO_2R_{10} wherein R_{10} is amino[,] or alkyl, [N-morpholinyl, N-pyrrolidinyl or N-piperazinyl], all of which are optionally substituted;

R_2 and R_3 are independently hydrogen, C_1-C_6 alkyl, C_1-C_6 alkylthio or C_1-C_6 alkylsulfinyl; and

R_5, R_6, R_7 and R_8 are independently selected from the group consisting of hydrogen, halo, halo(C_1-C_6)alkyl, C_1-C_6 alkyl, hydroxy(C_1-C_6)alkyl, amino(C_1-C_6)alkyl, carboxy(C_1-C_6)alkyl, alkoxy(C_1-C_6)alkyl, nitro, amino, C_1-C_6 acylamino, amide, hydroxy, thiol, C_1-C_6 acyloxy, C_1-C_6 alkoxy, carboxy, carbonylamido and C_1-C_6 alkylthiol.

17. (Once Amended) A pharmaceutical composition, comprising the compound of any one of claims [claim] 1, [or] 16, 22, or 25 and a pharmaceutically acceptable carrier.

22. (Three Times Amended) A compound of Formula *I*:

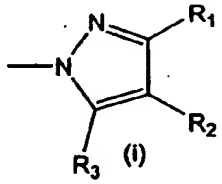


I

or a pharmaceutically acceptable salt, prodrug or solvate thereof, wherein

X is O or S;

Het is



R_1 is $C(O)R_{10}$, wherein R_{10} is amino[, N-morpholinyl, N-pyrrolidinyl or N-piperazinyl, all of which are optionally substituted];

R_2 and R_3 are independently hydrogen, C_1-C_6 alkyl, C_1-C_6 alkylthio or C_1-C_6 alkylsulfinyl; and

R_5, R_6, R_7 and R_8 are independently selected from the group consisting of hydrogen, halo, halo(C_1-C_6)alkyl, C_1-C_6 alkyl, hydroxy(C_1-C_6)alkyl, amino(C_1-C_6)alkyl, carboxy(C_1-C_6)alkyl, alkoxy(C_1-C_6)alkyl, nitro, amino, C_1-C_6 acylamino, amide, hydroxy, thiol, C_1-C_6 acyloxy, C_1-C_6 alkoxy, carboxy, carbonylamido and C_1-C_6 alkylthiol.

Applicants:	Hogenkamp *et al.*	**Due Date:**	None
		Art Unit:	1626
		Examiner:	Shameem, G.
Application No.:	09/814,123	**Docket:**	1861.1270001
Filed:	March 22, 2001	**Atty:**	JMC/THN
For:	**Aryl Substituted Pyrazoles, Triazoles and Tetrazoles, and the Use Thereof**		

When receipt stamp is placed hereon, the USPTO acknowledges receipt of the following documents:

1. SKGF Cover Letter;
2. Supplemental Amendment and Reply; and
3. One (1) return postcard.

Applicants:	Hogenkamp *et al.*	**Due Date:**	None
		Art Unit:	1626
		Examiner:	Shameem, G.
Application No.:	09/814,123	**Docket:**	1861.1270001
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Via Hand Carry
Group Art Unit 1626
Examiner G. Shameem

February 14, 2003

SKGF_DC1:102711.1

Please Date Stamp And Return To Our Courier

Sterne Kessler Goldstein Fox
ATTORNEYS AT LAW

1 of 3

February 14, 2003

WRITER'S DIRECT NUMBER:
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ICOVERT@SKGF.COM

Via Facsimile

Commissioner for Patents
Washington, D.C. 20231

Confirmation Copy Via Hand Carry
Group Art Unit 1626
Examiner G. Shameem

Re: U.S. Utility Patent Application
Appl. No. 09/814,123; Filed: March 22, 2001
For: **Aryl Substituted Pyrazoles, Triazoles and Tetrazoles, and the Use Thereof**
Inventors: HOGENKAMP *et al.*
Our Ref: 1861.1270001/JMC/THN

Sir:

Transmitted herewith for appropriate action are the following documents:

1. Supplemental Amendment and Reply; and

2. One (1) return postcard.

It is respectfully requested that the attached postcard be stamped with the date of filing of these documents, and that it be returned to our courier. In the event that extensions of time are necessary to prevent abandonment of this patent application, then such extensions of time are hereby petitioned.

The U.S. Patent and Trademark Office is hereby authorized to charge any fee deficiency, or credit any overpayment, to our Deposit Account No. 19-0036.

Respectfully submitted,

STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.

John M. Covert
Attorney for Applicants
Registration No. 38,759

Enclosures

SKGF_DC1:102710.1